

From: Gilbert, Toni <ToniGilbert@dwt.com>
Sent: Thursday, March 15, 2018 12:04 PM
To: MacCready, Paul
Cc: Graham, Clayton; Stanovsky, Walker
Subject: Point Wells Development Public Comments
Attachments: Point Wells Development Public Comments.pdf

Hello Paul –

Attached is a copy of the Point Wells development public comments letter. A hard copy is being mailed to you today.

Thank you,

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March 15, 2018

Via Email: Paul.MacCready@snoco.org

Paul MacCready
Project Manager, Point Wells Development
Snohomish County Design Review Board
3000 Rockefeller Avenue
Everett, WA 98201

Re: Point Wells Development Public Comments
Reference: File No: 11 101457 LU, et. al.

Dear Mr. MacCready:

This letter provides comments on behalf of our clients, Mary and Joseph Bundrant, on the Point Wells development proposal currently being evaluated by the Snohomish County design review board in the meeting scheduled for March 15, 2018. As longtime members of this community, and as immediate neighbors to the project (as you may know, the Bundrants' mailing address is 20530 Richmond Beach Drive, Shoreline, Washington 98177, though their property is located in the Town of Woodway), we and our clients have grave concerns about the developer's (BSRE) plans for this site.

Our concerns generally relate to the haphazard fashion in which this proposal has been advanced over several years, as the proposed development (given its size and lack of thoughtful design) seems certain to interfere with the Bundrants' and other neighbors' use and enjoyment of their property, and degrade the value and utility of surrounding streets and properties during and after its construction. In addition, many elements of the proposal still seem fundamentally incompatible with the character and needs of the area and the local community. This letter summarizes some, but not all, of these defects, as well as the basis for our clients' objections to the construction of this proposal across the street from their home. The two major problems with the development, as proposed, are as follows:

- 1. The proposal is clearly inconsistent with the design standards that the Board is charged with enforcing.**

Specifically:

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(A) The purported transit-oriented design features touted by applicant are both insufficient and not slated for substantial installation until *after* multiple project phases would be completed, which in turn precludes most or all of the proposed building heights exceeding 90 feet; and

(B) *Even if* the project's on-site recreation and pedestrian circulation features are deemed substantively sufficient after full build-out, the scheduled phasing for these design features is impermissible.¹

2. BSRE has denied the Board the opportunity for meaningful review of the proposal's compliance with applicable standards.

BSRE has done so by failing to update its superficial and cursory project proposal documents, even after the documents' many shortcomings were clearly enumerated by the Snohomish County Departments of Planning & Development Services and Public Works in their Review Completion Letter dated October 6, 2017 (the "2017 Review Completion Letter") as well as other third-party comments.

Accordingly, we respectfully urge the Board to recommend that the proposal be rejected outright as inconsistent with the applicable design standards. At a minimum, the Board should (1) require that all noncompliant aspects of the proposal be remedied before the project applications can be considered further; and (2) advise the Hearing Examiner that in many aspects of the project proposal, the Board has had no opportunity for meaningful review, and is thus unable to recommend approval of the proposal on that basis (let alone consider how the project design could be made consistent with the design standards).

For the Board's reference, the following sections of this letter discuss the numerous aspects of the project proposal that are clearly noncompliant with applicable design standards. The Board should—and in our view, must—require that these issues be remedied if the project is to be further processed by the County.

I. SELECTED NON-COMPLIANT ASPECTS OF PROJECT PROPOSAL

Under the Snohomish County Code (the "Code" or "SCC"), the Design Review Board is charged with making written recommendations that "synthesize community input on design

¹ The text of SCC 30.34A.190 as of applicant's vesting ("Public Space and Amenities") dictates that required on-site recreation and pedestrian circulation design features "must be installed with completion of the first building or first phase of the development, if the overall development is to be phased."

concerns [and] ensure fair and consistent application of the design standards of this chapter [SCC 30.34A].” *See, e.g.*, SCC 30.34A.180(2)(b)(i)-(ii) (2011).²

Presumably, such recommendations serve the broader purpose of informing the hearing examiner’s subsequent inquiry into whether the development incorporates design “elements such as superior pedestrian- and transit-oriented architecture,” and that “[b]uildings and site features are arranged, designed, and oriented to facilitate pedestrian access . . . and to provide transit linkages.” SCC 30.34A(2)(b)(iv); (vi) (2011).

However, due to the project’s proposed phasing, the proposed “pedestrian- and transit-oriented architecture” is not “superior” or even sufficient to satisfy 30.34A’s design requirements; and that the proposal unequivocally does not facilitate pedestrian access or provide transit linkages until later phases of the development. This is inconsistent with the Code’s requirements.

A. The Purported Transit-Oriented Design is Insufficient, and Would Not Be Substantially Installed Until After the Project Is Partially Built.

Access to transit is critical to BSRE’s proposal, both as a practical matter and because the ordinary height limit in the urban center zone is 90 feet, with an additional 90 feet that could be approved, but only for a development with access to a “high-capacity transit route or station[.]” SCC 30.34A.040 (2011). BSRE “assumes full use of” that bonus height, meaning that the entire plan depends upon a finding that Point Wells actually has access to a high-capacity transit route or station. However, it is doubtful that the development can meet this requirement even at full build-out, and impossible at the time the first overheight buildings would be constructed during Phase I of the proposal.

First, the application materials lack sufficient detail to determine whether or not the proposal meets this make-or-break requirement even after full build-out. *See* 2017 Review Completion Letter at 32-33. It does not appear that BSRE has submitted any supplemental materials responsive to the concerns in the 2017 Review Completion Letter on this point, nor the various documents referenced therein—despite the warning that BSRE “must revise” its materials to resolve the question of high capacity transit route access. At a minimum, the DRB should recommend that on the basis of BSRE’s application materials, the County cannot support, and the Hearing Examiner cannot grant permits for, buildings exceeding 90 feet in height anywhere in the project.

² While it appears that the County is processing the approvals for the project under the requirements the 2011 Code, the current proposal is wholly inconsistent with any iteration of the County’s design review requirements.

SCC 30.34A.085 (2011) sets out minimum requirements for transit access that apply to *all* business and residential buildings within an urban center. Of the three options, (1) and (2) require new or existing stops or stations on “high capacity transit routes” within 1/2 mile, and option (3) allows developers to meet the minimum transit requirement by using “van pools or other similar means of transporting people on a regular schedule.” 2017 Review Completion Letter at 85. As DPS noted, BSRE can only meet this baseline requirement by option 3 “because there are no existing or planned stops or stations for high capacity transit routes within ½ mile of Point Wells.” *Id.*

Though SCC 30.34A.040 (2011) lacks detail about what “high capacity transit” suffices for the height limit, section .040 must require significantly *more* access to transit than Section .085 to qualify for the height bonus. Otherwise, any business or residence allowable within *any* urban center would automatically qualify for added height. Such a reading of the Code would render meaningless the “high capacity transit” requirement in .040. In any event, PDS has concluded that the proposal cannot meet even the baseline requirement through high capacity transit, and must instead rely instead on charter bus service. 2017 Review Completion Letter at 85. Thus, whatever transit access is required to qualify for the height bonus of section .040, BSRE’s proposal cannot meet it, and thus cannot qualify for the added height on which its applications depend.

Moreover, even if the additional transit options predicted by BSRE were to materialize *and* qualify as “high capacity transit” for purposes of the increased height limit, the phasing of transit improvements proposed by BSRE still violates this requirement. This is because Phase 1 of the project (a.k.a. the “South Village”) alone includes at least six buildings that will exceed 100 feet in height. *See* Revised Project Narrative at 6; 2017 Architectural Plans, sheet A-040. Yet BSRE does not propose to build the “urban plaza,” which would “serve[] as the main . . . transit hub for the community” until Phase 2. *Id.* at 6 and 33. Not until phase 3 or 4 does BSRE envision even the possibility high-capacity transit, and even then there is no guarantee that this will ever be available at the project site. *Id.* at 7.

In other words, BSRE seeks to benefit in Phase 1 from overheight buildings long before it has any intention of building out any kind of transit capacity to attempt to legalize those heights. Instead, BSRE relies on charter bus service to meet even the minimum requirement of SCC 30.34A.085. A development as large as Point Wells would take many years to complete even in the best of circumstances. There is no guarantee that BSRE will actually complete the entire development, and still less that it will complete them within the schedule it envisions, let alone provide all of the amenities promised.

And even if all the requirements of SCC 30.34A.040 are met, that section provides only that the additional height “*may* be approved,” not that it must. (Emphasis added). As discussed

in Section II, the application contains numerous gaps with respect to the actual design of the towers. **Accordingly, the DRB should recommend against allowing buildings exceeding 90 feet high, due to both the fatal deficiency in access to transit and also because the application lacks sufficient detail in the design of the buildings and surrounding development to justify a discretionary allowance of height above 90 feet.**

Finally, in the event that the Hearing Examiner determines the height limit to be 90 feet, we agree with the detailed comments by Mr. Tom McCormick recommending that all building heights be adjusted to maintain the tiered, stepped-back approach to the overall arrangement of buildings, as advocated by BSRE. The Board should adopt Mr. McCormick's detailed recommendations in that regard.

To address this issue, the DRB should recommend as follows, or reject the proposal outright:

- **BSRE must provide high capacity transit access with the first phase of the development, rather than waiting until years after construction of the first over-height buildings dependent on that access;**
- **If BSRE cannot do so, the design cannot be approved with buildings exceeding 90 feet in any phase before high capacity transit is added; and**
- **Even if BSRE's speculative transit concepts materialize, the application lacks sufficient design detail to justify discretionary approval of buildings exceeding 90 feet.**
- **If the Hearing Examiner determines the height limit to be 90 feet, the application should be conditioned as recommended in the public comments of Tom McCormick to maintain BSRE's proposed tiered approach.**

B. Even if the Project's Substantially Undescribed Pedestrian and Recreation Design Features Are Sufficient, SCC 30.34A Disallows Applicant's Proposed Phasing Schedule.

Applicant's proposed plan for pedestrian and open space design presents an even clearer fatal flaws that the Board should recommend be remedied as a condition of approval. The Board, charged with "ensur[ing] fair and consistent application of the design standards of this chapter [SCC 30.34A]," SCC 30.34A.180(2)(b)(i)-(ii) (2011), must thus ensure compliance with the chapter's "Public spaces and amenities" provision codified as of vesting, SCC 30.34A.190 (2011). That provision dictates, without exception:

“On-site recreation . . . and pedestrian circulation . . . must be installed with completion of the first building or first phase of the development if the overall development is to be phased.”

Here, BSRE’s proposed pedestrian and recreational design planning does *not* comply with this requirement. On page 22 of the Project Proposal, applicant admits that “the Point Wells Urban Center plan proposes to develop the on-site public pedestrian and open space network to follow the phasing schedule of the overall development.” *Id.* (emphasis provided). BSRE has not even confirmed whether any petroleum storage tanks will remain on the north part of the site after Phase I or other phases are completed, despite PDS requesting this clarification as early as 2013. 2017 Review Completion Letter at 24.

While the importance of site clean-up and remediation cannot be overstated, the plain language of the Code does not allow for such an exception. Accordingly, the plan’s proposed phasing of pedestrian and recreational design features is not “consistent with this Chapter,” as the Board is required to ensure.

In this respect, the DRB should recommend as follows:

- **BSRE must complete all recreational and pedestrian design features of the project in accordance with the plain language of the applicable Code provisions – during the first phase of the development.**

II. NON-REVIEWABLE ASPECTS OF THE PROJECT PROPOSAL

In addition to the non-compliant aspects of the current proposal, the County’s 2017 Review Completion Letter clearly outlines many more design aspects that the Board cannot review, simply because the proposal provides insufficient detail. It does not appear that BSRE has submitted any substantive documents to supplement its application since receiving the 2017 Review Completion Letter. BSRE’s failures are particularly egregious given that the County identified many of these issues in its original 2013 Review Completion Letter, and BSRE left the vast majority of those issues completely or partially un-addressed in its re-submittal four years later. *See* 2017 Review Completion Letter at 12-13.

The Appendix to this letter aggregates several of the most important areas in which BSRE’s application is insufficient to confirm the project’s compliance with Code requirements and design standards within the scope of the Board’s review. In light of this long (though not exhaustive) list of omissions and superficial descriptions of key project elements, the Design

Review Board has been denied the opportunity to conduct meaningful review of multiple aspects of the proposal.

With respect to subjective design considerations, the 2017 Review Completion Letter discusses only whether the application is sufficient for design review. PDS does not itself evaluate compliance with subjective design criteria, but instead “refers recommendations on subjective matters” to this Board, applying the version of SCC 30.34A.165 in effect in 2011. 2017 Review Completion Letter at 79, 241-43. The Board’s responsibility is then to “[e]nsure fair and consistent application of the design standards of this chapter and any neighborhood-specific design guidelines.” *See* SCC 30.34A.180(2)(b)(ii) (2011); 2017 Review Completion Letter at 246.

These recommendations from the Board feed directly into the final decision of the Hearing Examiner. The Hearing Examiner may only approve the application (even with conditions) if (among other conditions):

- (iv) The development demonstrates high quality design by incorporating elements such as
 - (A) Superior pedestrian- and transit-oriented architecture;
 - (B) Building massing or orientation that responds to site conditions;
 - (C) Use of structural articulation to reduce bulk and scale impacts of the development;
 - (D) Use of complementary materials; and
 - (E) Use of lighting, landscaping, street furniture, public art, and open space to achieve an integrated design[.]

See SCC 30.34A.180(2)(c) (2011).

The shortcomings outlined in the Appendix to this letter, drawn from the much longer list of failures in the 2017 Review Completion Letter, make it abundantly clear that the application lacks sufficient detail for the Board to ensure compliance with the design requirements, let alone make any meaningful recommendation to the Examiner.

In light of these failures, the DRB should recommend as follows:

- **The project should not be approved unless and until an application is submitted that allows for the Design Review Board to ensure compliance with applicable design standards as required by law.**
- **The application lacks sufficient detail to find compliance with SCC 30.34A.180(2)(c) (2011), which would be required before the Hearing Examiner can approve the application.**

III. CONCLUSION

We appreciate the hard work by the Board and by PDS staff to ensure that any development at Point Wells meets Code requirements for projects of this magnitude. For the foregoing reasons, we respectfully request that the DRB recommend against approving the application as submitted. We further request the Board's recommendation that if the application is not rejected outright, it be conditioned to ensure full compliance with all design requirements *before* final approval, as required by the County's Code.

Sincerely,



Clayton P. Graham

APPENDIX – SUMMARY OF MOST SERIOUS OMISSIONS BY BSRE

This Appendix highlights several areas in which the Board's required review is impossible based on the current record. This list is not exhaustive, but merely aggregates some of the most critical shortcomings referenced in the 2017 Review Completion Letter. Emphasis in bold has been provided throughout for ease of reference.

- Landscaping Design:

- As documented in the 2017 Design Completion Letter, **“the general level of detail shown is not enough. . . . Detailed landscaping plans will be required before consideration of the project by the Design Review Board (DRB).”** 2017 Review Completion Letter at 51, *et seq.*
- In addition, “[s]ome of the proposed trees and locations do not comply. . . . An example would be the big leaf maple trees that the landscaping plans propose as street trees in the Central Village. Big leaf maples are not an approved street tree.” *Id.*
- Further:
 - “The landscaping plans do not include figures for the total amount of landscaping provided. . . . the applicant should revise the plans to include the missing information so that future findings related to the project can state the amount of landscaping provided relative to this requirement.” *Id.*
 - “Sub-subsection (2)(c) [of SCC 30.25.015 (2009)] requires an assessment of “whether temporary or permanent irrigation is required to maintain the proposed landscaping”. There is no such assessment in the landscaping plans and it must be included in a revised application.” *Id.*
 - “Sheets L-100 and L-101 show a number of street trees, but they do not show other right-of-way plantings as required [under SCC 30.25.015(2)(d)].” *Id.*
 - “Sub-subsection (2)(e) [of SCC 30.25.015 (2009)] requires that the landscaping plan include the location, caliper and species of all significant trees on the site that are proposed to be removed. The landscaping plan does not include this information.” *Id.*
 - “Subsubsection (2)(i) says that the landscaping plan, which is part of the Urban Center application (11 101457 LU), must show the clearing limits of the proposed land disturbing activities (11 101008 LDA). At present, the landscaping plans do not show the clearing limits.” *Id.*
 - “Subsection (6) sets forth certain landscaping requirements, most of which cannot be evaluated at this time due to lack of detail.” *Id.*
 - “Subsection (7) sets forth certain landscaping requirements, most of which cannot be evaluated at this time due to lack of detail.” *Id.*
 - “The April 17, 2017, landscaping plans (Sheet L-100 and L-101) depict many street trees but do not have sufficient detail to evaluate street tree requirements fully [under Subsection (8)]” *Id.*

- “Snohomish County cannot evaluate [General Tree Retention and Replacement Requirements under SCC 30.25.016] until the applicant provides the information required for SCC 30.25.015(2)(i) (2009) above.” *Id.*
- “Snohomish County cannot evaluate [type A and Type B Landscaping under SCC 30.25.017] until the landscaping plans provide greater detail.” *Id.*
- “Snohomish County cannot evaluate [Perimeter Landscaping under SCC 30.25.020 (2010)] until the landscaping plans provide greater detail.” *Id.*
- “The April 17, 2017, landscaping plans lack sufficient detail to determine what, if any, parts of the proposal would require landscape modifications [under SCC 30.24.040].” *Id.*
- Open Space Design:
 - “More revisions and corrections are necessary to demonstrate compliance with Snohomish County Code.” *Id.* at 27.
 - “Subsection (3) [of SCC 30.34A.070 (2010)] requires provision of one or more types of active uses and provides an illustrative list of such uses. Before Snohomish County can recommend approval of Point Wells, the applicant must update the plans to show specifically how the project will meet this requirement.” *Id.*
- Step Back and Roof Edge Design:
 - “Subsection (2) [of SCC 30.34A.120] says that façades of “floors that are stepped back must be distinguished by a change in elements [followed by a list of possible elements] so that the result is a rich and organized combination of features that face the street.” *Id.* at 87.
 - “Because this is an admittedly subjective measure, Snohomish County will refer Subsection (2) to the Design Review Board for them to address in their recommendation to the Hearing Examiner.” *Id.*
 - “It is important to note that no building elevations for the towers in the Urban Plaza have been provided, despite having been requested in the April 12, 2013, Review Completion Letter. The absence of these required elevations makes completing review of Subsection (2) impossible.” *Id.*
- Massing and Articulation Design:
 - “[T]he application does not satisfy the submittal requirements of SCC 30.34A.170 [2010]. This section sets forth requirements on the level of detail required for each building or major building type. The application only provides three elevations for typical buildings.” *Id.* at 19-20.
 - “The April 17, 2017, urban center submittal does not include enough information to evaluate this section [SCC 30.34A.130]. The April 12, 2013 Review Completion Letter requests elevations for the other types of buildings (comment (k) on page 2), but the applicant has not responded to this request.” *Id.* at 90.

- “[T]his level of building detail is necessary as part of final site plan approval and it is unclear whether the Design Review Board will be able to make recommendations on this section.” *Id.*
- “For the tower buildings, more detail on materials at the base of the building will be necessary for final design. At the Design Review Board stage, the lack of detailing is problematic because it makes it difficult for the DRB to provide meaningful input and recommendations.” *Id.*
- Specifically with respect to the possibility of alternate massing and articulation, “[i]t is . . . possible that the Hearing Examiner could approve massing and articulation designs different than called for in [SCC 30.34A.130(4)]. However, the part [sic] of the basis for the Hearing Examiner decision would be recommendations from the Design Review Board. The sparse level of the detail in the April 17, 2017, Urban Center submittal is insufficient for the DRB to make anything other than preliminary recommendations.” *Id.* at 93.
- Design for Blank Walls:
 - “This section [SCC 30.34A.160] provides design options to meet a requirement that blank walls longer than 20 feet have visual interest. [However], the submittal drawings do not enough building elevations to allow evaluation of this section. Blank wall treatment is a subject that will be part of the discussion of the Design Review Board for guiding recommendations.” *Id.*
- Parking Entrance Design:
 - Per SCC 30.34A.050, “garage entrances must be minimized, and where feasible, located to the side or rear of buildings. . . . Exterior architectural treatments must complement or integrate with the architecture of the building through the provision of architectural details.”
 - The 2017 Review Completion Letter affirms “that location of parking entrances will be an agenda item for the Design Review Board (DRB) to consider. . . . Absent information such as garage entrance elevations, it will be difficult for the DRB to recommend anything other than the provision of adequate detail.” *Id.* at 23.
 - Further, “[m]ore detail is necessary to confirm the appropriateness of the proposed [parking lot] landscaping. The beach parking area at the south end of the project site is the main concern here. The applicant must revise this parking area to include landscaping per SCC 30.25.022.” *Id.* at 55.
- Signage Design:
 - “[T]he urban center architectural plans did not [in the first instance] indicate proposed project signs or sign program [under SCC 30.34A.090]. . . . The applicant did not respond to this comment. Second request: A response is still required.” *Id.* at 27.
- Screening Design:
 - “If garbage collection areas are outside, then the building elevations will need revision to show either architectural treatment (e.g. walls) similar to the adjacent buildings or screening with landscaping.” *Id.* at 86.

- “Will garbage collection for the public areas – e.g. the amphitheater, beach, and pier . . . be in standard cans screened by walls or landscaping?” *Id.*
- “If there are any outdoor garbage collection areas that will have screening via landscaping, then the landscaping plans need to reflect this. See SCC 30.25.024.” *Id.*
- Floor Area Ratio³:
 - “[N]ot enough information appears on the April 27, 2017 version of the plans to demonstrate compliance with the applicable definitions and method for calculating FAR.” *Id.* at 22.
 - This shortcoming violates the 30.34A.170 submittal requirements that the plan to be considered by the Design Review Board must contain “at a minimum . . . [p]roposed building heights and FAR.”
- Parking Ratios⁴:
 - “The applicant has only partially responded. . . . there is still missing information [in] these tables regarding some of the uses and the tables include several conflicts with the plans.” 2017 Design Completion Letter at 24.

³ Subject to Board review under SCC 30.34A.180(2)(b) (“the design review board shall provide written recommendations . . . on potential modifications regarding the project, such as . . . density”)

⁴ *Id.*